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July 14, 2003

**VIA ELECTRONIC COMMENT FILING SYSTEM**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: Application by SBC Communications, Inc., et al for Provision of In-Region,  
InterLATA Services in Michigan, WC Docket No. 03-138

Dear Ms. Dortch:

In this letter, the CLEC Association of Michigan provides additional information for the Commission's consideration concerning the adequacy of SBC's wholesale billing.

In its application, SBC attempts to trivialize CLEC wholesale billing complaints by asserting that just "12.1% of total billings were disputed."<sup>1</sup> But a brief survey just conducted by the CLEC Association of Michigan shows the SBC Michigan wholesale billing debacle is dramatically more serious than SBC's allegation and characterization attempts to imply.

The CLEC Association has attempted to estimate the share of the Michigan CLEC market represented by each principal CLEC (those with more than a small fraction of a percent of the Michigan CLEC market), and has asked each of those carriers whether they currently have serious wholesale billing disputes with SBC Michigan. The results of this survey are shown in the attachment.

Of those CLECs responding to the survey, CLECs answering "yes" to having serious wholesale billing disputes currently with SBC Michigan are shown as representing 87% of the total CLEC market share in Michigan. This survey was only requested two business days ago, and some of the CLECs surveyed were on vacation or otherwise unavailable. In addition, to the extent that this survey contains market share estimation errors, many might suggest that we have underestimated the market shares of AT&T and MCI. If the assumed market shares of AT&T and/or MCI are raised, or if any non-respondents subsequently respond positively with dispute

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<sup>1</sup> Brown-Cottrell-Flynn Supplemental Affidavit.

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information, then the 87% with serious wholesale billing disputes could grow significantly larger.

It will be noted that of the respondents, only a fraction of one percent of the Michigan CLEC marketshare responded saying no, they had no significant wholesale billing disputes with SBC Michigan.

For your reference, we have provided a relevant email address for each of the survey respondents as noted.

Very truly yours,

CLARK HILL PLC

A handwritten signature in black ink, appearing to read "R. S. Coy", with a stylized flourish at the end.

Roderick S. Coy  
Leland R. Rosier

RSC:pgt  
Enclosures

## **CLEC Association of Michigan Survey Results Concerning SBC Wholesale Billing**

### **BULLSEYE TELECOM**

Currently, BullsEye Telecom, Inc. has disputes on all (100%) of its SBC/Ameritech Michigan UNE-P invoices. It has typically taken numerous months for SBC to answer and resolve individual errors in billing, and sometimes, they have failed to resolve them at all.

These disputes are due to a number of issues that BullsEye has found with SBC billing. They include:

- Installation charges on lines that were migrated over UNE-P to BullsEye from another CLEC using UNE-P or SBC.
- Disconnection charges on lines that were migrated away from BullsEye to another CLEC using UNE-P or SBC.
- Duplicate loop, port, cross connect and local number portability charges.
- Charges for lines that were disconnected but SBC still shows that as active in their billing system.
- Charges for lines that were never BullsEye's.
- Charges for orders in which the PON does not belong to BullsEye
- Incorrect activation dates.
- Incorrect MRCs.
- Incorrect Terminating End Office Switching Rates.
- Invalid NRCs for installation/disconnection due to an accessible letter released by SBC that outlines what NRCs would be included in each scenario. In some cases, the charges in which we are being charged are outside that explanation.

Recent invoices have also included retroactive adjustments due to incorrect billing by SBC of loop zone rates. In addition to demonstrating inaccuracies in SBC's wholesale billing, these adjustments require BullsEye to allocate additional resources to the invoice validation process.

SBC has closed most of BullsEye's claims with little to no explanation as to why the dispute was not valid and then, they demand payment without allowing time for BullsEye to look at the claims again. It is our view that SBC has inadequate systems and insufficient follow-through on issues in regards to Wholesale Billing.

### **TELNET WORLDWIDE, INC.**

TelNet has 22 bills (current month) that contain items that TelNet has disputed or will be disputing. These disputes generally are price related, where the price billed does not agree with the tariff or TelNet's contract with SBC. Other disputes include incorrect USOC being billed based on geographic location of the item being purchased. Telnet's percentage of billing in

dispute is definitely higher than 12%, more like 40% in which one or more items on the bills are in dispute.

Because of the errors, TelNet must review each line of each bill received from SBC. This requires a large amount of time to make sure that TelNet is paying the correct amounts for services received from SBC. This must be repeated on a monthly basis. It can take several attempts to get an item resolved. Many times the response from SBC is not correct and must be disputed again. It also must be disputed on each bill, not just the first time a service is billed.

TelNet has seen no difference in the accuracy of its wholesale bills from SBC since the DOJ last evaluated SBC's Section 271 performance for Michigan in February 2003.

#### Z-TEL

The financial implications of wholesale billing disputes with SBC is very significant. Z-Tel recently had \$2M in dispute in Michigan which is significant relative to our company cash balance. Therefore, they have the CLECs in a stranglehold – hitting us where it hurts most...cashflow (keeping in mind that most if not all interconnection agreements require CLECs to pay 100% of all disputed amounts to SBC or put it into escrow).

It takes a long time to get SBC Michigan to resolve wholesale billing disputes. Z-Tel initiated for approximately 2000 line items in July 2002. Some of these disputes are more than two years old. Today, some credits have still not been received.

While SBC may say that wholesale billing accuracy in the Ameritech states is generally comparable to that of non-Ameritech states, we say: Wrong. We have far fewer disputes in the other SBC regions. Ameritech is by far the worst.

#### SUPERIOR SPECTRUM

We have submitted claim forms for each invoice, received claim numbers, but no credits have been applied to our invoices yet. Incorrect billing continues for UNE-P customers.

#### SAGE TELECOM

Sage Telecom is not receiving complete and accurate Call Detail Records from SBC. SBC has failed to provide Sage with complete and accurate Call Detail Records ("CDR") regarding the intraLATA toll and terminating access services that Sage provides to its access customers, including SBC itself. Indeed, an audit of Sage's May 2003 CDRs for the State of Michigan indicates that the terminating access CDR received from SBC under-report the volume of traffic terminated by Sage by more than 14%.

Accurate CDRs from SBC are the only means by which Sage can bill in a timely and accurate way for access services. Despite Sage's repeated attempts over the last several months to resolve this issue, no solution currently appears to be in sight. Sage is still without the necessary information required to ensure complete and accurate billing for intraLATA toll and terminating access services. . Moreover, the longer SBC waits to provide it, the more stale the invoices become, and the greater the risk of nonpayment to Sage becomes. Obviously, this situation is having a negative financial impact on Sage.

Accordingly, depriving Sage of the ability to bill intraLATA toll and access customers for service puts Sage at a significant competitive disadvantage. In previous 271 proceedings, the Commission has noted the gravity of billing issues, and their detrimental effect upon competing carriers. In the Texas 271 Order, the Commission noted that billing issues "can cause direct financial harm to competing carriers." SBC's billing problems are "competitively significant" for Sage. Foremost, without timely and accurate CDR, Sage cannot thereby bill its customers and collect revenues to which it is entitled.

With respect to the Incollect billings, Sage is forced to undertake the time-consuming process of auditing a bill and documenting the dispute, and as in Texas, litigating the charges.

#### MCI

MCI has a significant number of disputes open with SBC regarding billing issues. This includes billing for the wrong USOCs, continued billing of the wrong rates, inability to provide detail on the reasons we were billed for certain USOCs, etc. We still have a significant number of lines for which SBC is still billing us, even though we received line losses on those accounts. SBC has confirmed that we received the line losses in error some time ago (two years), but that they never corrected the problem or stopped billing.

CLEC	Market Share	Cumulative Market Share	Disputes?	Contact for Details:
AT&T	26%	26%	Yes	<a href="mailto:jjreidy@att.com">jjreidy@att.com</a>
MCI	19%	45%	Yes	<a href="mailto:sherry.lichtenberg@mci.com">sherry.lichtenberg@mci.com</a>
TalkAmerica	14%	59%	Yes	<a href="mailto:francie@talk.com">francie@talk.com</a>
Z-Tel	6%	65%	Yes	<a href="mailto:rwalters@z-tel.com">rwalters@z-tel.com</a>
LDMI	6%	71%	Yes	<a href="mailto:bshires@ldmi.com">bshires@ldmi.com</a>
XO	4%	75%	Yes	<a href="mailto:doug.kinkoph@xo.com">doug.kinkoph@xo.com</a>
TDS Metrocom	3%	78%	Yes	<a href="mailto:peter.healy@tdsmetro.com">peter.healy@tdsmetro.com</a>
BullsEye	3%	81%	Yes	<a href="mailto:boberlin@bullseyetelecom.com">boberlin@bullseyetelecom.com</a>
Telnet Worldwide	2%	83%	Yes	<a href="mailto:shirley.kelley@telnetww.com">shirley.kelley@telnetww.com</a>
CMC Telecom	2%	85%	Yes	<a href="mailto:cchamp@cmctelecom.net">cchamp@cmctelecom.net</a>
Superior Spectrum	1%	86%	Yes	<a href="mailto:cindyy@superiorspectrum.com">cindyy@superiorspectrum.com</a>
Sage Telecom	1%	87%	Yes	<a href="mailto:rmccausland@sagetelecom.net">rmccausland@sagetelecom.net</a>
Access One	0%		No	<a href="mailto:miltonr@accessoneinc.com">miltonr@accessoneinc.com</a>
McLeod	4%		?	
CoreComm	2%		?	
Allegiance	2%		?	
Choice One	2%		?	
KMC Telecom	1%		?	
Other CLECs	3%		?	
Grand Total:	100%			